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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 MICHAEL RHAMBO,

11 Plaintiff,

12 vs.

13
14 GREEN STREET RESTAURANT
15 PARTNERS, LLC; and DOES 1 through
16 10,

17 Defendants.
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23
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Case No.:

COMPLAINT FOR INJUNCTIVE
RELIEF AND DAMAGES FOR
VIOLATION OF:

1. AMERICANS WITH DISABILITIES
ACT, 42 U.S.C. §12131 et seq.;
2. CALIFORNIA'S UNRUH CIVIL
RIGHTS ACT, CAL CIV. CODE §§ 51 -
52 et seq.;
3. CALIFORNIA'S DISABLED
PERSONS ACT, CAL CIV. CODE §54 et
seq.
4. CALIFORNIA HEALTH & SAFETY
CODE § 19955, et seq.
5. NEGLIGENCE

25 Plaintiff MICHAEL RHAMBO ("Plaintiff") complains of Defendants GREEN
26 STREET RESTAURANT PARTNERS, LLC; and DOES 1 through 10 ("Defendants")
27 and alleges as follows:
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PARTIES

1
2 1. Plaintiff is a California resident with a physical disability with substantial
3 limitation in his ability to walk. Plaintiff suffers from paraplegia due to T12 vertebrae
4 thoracic spinal cord injury and requires the use of a wheelchair at all times when
5 traveling in public.

6 2. Defendants are, or were at the time of the incident, the real property owners,
7 business operators, lessors and/or lessees of the real property for a restaurant business
8 establishment (“Business”) located at or about 44 W. Green St., Pasadena, California.

9 3. The true names and capacities, whether individual, corporate, associate or
10 otherwise of Defendant DOES 1 to 10, and each of them, are unknown to Plaintiff, who
11 therefore sues said Defendants by such fictitious names. Plaintiff will ask leave of Court
12 to amend this Complaint when the true names and capacities have been ascertained.
13 Plaintiff is informed and believes and, based thereon, alleges that each such fictitiously
14 named Defendants are responsible in some manner, and therefore, liable to Plaintiff for
15 the acts herein alleged.

16 4. Plaintiff is informed and believes, and thereon alleges that, at all relevant
17 times, each of the Defendants was the agent, employee, or alter-ego of each of the other
18 Defendants, and/or was acting in concert with each of the other Defendants, and in doing
19 the things alleged herein was acting with the knowledge and consent of the other
20 Defendants and within the course and scope of such agency or employment relationship.

21 5. Whenever and wherever reference is made in this Complaint to any act or
22 failure to act by a defendant or Defendants, such allegations and references shall also be
23 deemed to mean the acts and failures to act of each Defendant acting individually, jointly
24 and severally.

JURISDICTION AND VENUE

25
26 6. The Court has jurisdiction of this action pursuant to 28 USC §§ 1331 and
27 1343 for violation of the Americans with Disabilities Act of 1990, (42 USC §12101, *et*
28 *seq.*)

1 Business, however, Plaintiff is deterred from visiting the Business because his knowledge
2 of these violations prevents his from returning until the barriers are removed.

3 15. Based on the violations, Plaintiff alleges, on information and belief, that
4 there are additional barriers to accessibility at the Business after further site inspection.
5 Plaintiff seeks to have all barriers related to his disability remedied. *See Doran v. 7-
6 Eleven, Inc.* 524 F.3d 1034 (9th Cir. 2008).

7 16. In addition, Plaintiff alleges, on information and belief, that Defendants
8 knew that particular barriers render the Business inaccessible, violate state and federal
9 law, and interfere with access for the physically disabled.

10 17. At all relevant times, Defendants had and still have control and dominion
11 over the conditions at this location and had and still have the financial resources to
12 remove these barriers without much difficulty or expenses to make the Business
13 accessible to the physically disabled in compliance with ADDAG and Title 24
14 regulations. Defendants have not removed such barriers and have not modified the
15 Business to conform to accessibility regulations.

16 **FIRST CAUSE OF ACTION**

17 **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**

18 18. Plaintiff incorporates by reference each of the allegations in all prior
19 paragraphs in this complaint.

20 19. Under the Americans with Disabilities Act of 1990 (“ADA”), no individual
21 shall be discriminated against on the basis of disability in the full and equal enjoyment of
22 the goods, services, facilities, privileges, advantages, or accommodations of any place of
23 public accommodation by any person who owns, leases, or leases to, or operates a place
24 of public accommodation. *See* 42 U.S.C. § 12182(a).

25 20. Discrimination, *inter alia*, includes:

- 26 a. A failure to make reasonable modification in policies, practices, or
27 procedures, when such modifications are necessary to afford such
28 goods, services, facilities, privileges, advantages, or accommodations

1 to individuals with disabilities, unless the entity can demonstrate that
2 making such modifications would fundamentally alter the nature of
3 such goods, services, facilities, privileges, advantages, or
4 accommodations. 42 U.S.C. § 12182(b)(2)(A)(ii).

5 b. A failure to take such steps as may be necessary to ensure that no
6 individual with a disability is excluded, denied services, segregated or
7 otherwise treated differently than other individuals because of the
8 absence of auxiliary aids and services, unless the entity can
9 demonstrate that taking such steps would fundamentally alter the
10 nature of the good, service, facility, privilege, advantage, or
11 accommodation being offered or would result in an undue burden. 42
12 U.S.C. § 12182(b)(2)(A)(iii).

13 c. A failure to remove architectural barriers, and communication barriers
14 that are structural in nature, in existing facilities, and transportation
15 barriers in existing vehicles and rail passenger cars used by an
16 establishment for transporting individuals (not including barriers that
17 can only be removed through the retrofitting of vehicles or rail
18 passenger cars by the installation of a hydraulic or other lift), where
19 such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv).

20 d. A failure to make alterations in such a manner that, to the maximum
21 extent feasible, the altered portions of the facility are readily
22 accessible to and usable by individuals with disabilities, including
23 individuals who use wheelchairs or to ensure that, to the maximum
24 extent feasible, the path of travel to the altered area and the
25 bathrooms, telephones, and drinking fountains serving the altered
26 area, are readily accessible to and usable by individuals with
27 disabilities where such alterations to the path or travel or the
28 bathrooms, telephones, and drinking fountains serving the altered

1 area are not disproportionate to the overall alterations in terms of cost
2 and scope. 42 U.S.C. § 12183(a)(2).

3 21. The side wall grab bar shall be 42 inches (1065 mm) long minimum, located
4 12 inches (305 mm) maximum from the rear wall and extending 54 inches (1370 mm)
5 minimum from the rear wall. 2010 ADA Standards § 604.5.1. The rear wall grab bar
6 shall be 36 inches (915 mm) long minimum and extend from the centerline of the water
7 closet 12 inches (305 mm) minimum on one side and 24 inches (610 mm) minimum on
8 the other side. 2010 ADA Standards § 604.5.2

9 22. Here, Defendants failed to install the side and rear grab bars as required by
10 the Standards.

11 23. The highest operable part of controls, dispensers, receptacles, and other
12 operable equipment shall be placed within at least one of the reach ranges specified in
13 4.2.5 and 4.2.6. Electrical and communications system receptacles on walls shall be
14 mounted no less than 15 in (380 mm) above the floor. 1991 ADA Standards § 4.27.3

15 24. Here, Defendants failed to properly install the paper towel dispenser as it
16 was installed too high.

17 25. Toilet paper dispensers shall comply with 309.4 and shall be 7 inches (180
18 mm) minimum and 9 inches (230 mm) maximum in front of the water closet measured to
19 the centerline of the dispenser. The outlet of the dispenser shall be 15 inches (380 mm)
20 minimum and 48 inches (1220 mm) maximum above the finish floor and shall not be
21 located behind grab bars. Dispensers shall not be of a type that controls delivery or that
22 does not allow continuous paper flow. 2010 ADA Standards § 604.7.

23 26. Here, Defendants failed to install a toilet paper dispenser in compliance with
24 the Standards.

25 27. Water supply and drain pipes under lavatories and sinks shall be insulated or
26 otherwise configured to protect against contact. There shall be no sharp or abrasive
27 surfaces under lavatories and sinks. 2010 ADA Standards § 606.5.

28 28. Here, Defendants failed to properly insulate the drain pipes under the sink.

1 29. Toilet flush controls shall be hand operated or automatic. Hand operated
2 flush controls shall comply with 309. Flush controls shall be located on the open side of
3 the water closet. 2010 ADA Standards § 604.6.

4 30. Here, Defendants failed to install a proper flush control as it was not located
5 on the open side of the water closet.

6 31. A public accommodation shall maintain in operable working condition those
7 features of facilities and equipment that are required to be readily accessible to and usable
8 by persons with disabilities by the Act or this part. 28 C.F.R. 35.211(a).

9 32. By failing to maintain the facility to be readily accessible and usable by
10 Plaintiff, Defendants are in violation of Plaintiff's rights under the ADA and its related
11 regulations.

12 33. The Business has denied and continues to deny full and equal access to
13 Plaintiff and to other people with disabilities. Plaintiff has been and will continue to be
14 discriminated against due to the lack of accessible facilities, and therefore, seeks
15 injunctive relief to alter facilities to make such facilities readily accessible to and usable
16 by individuals with disabilities.

17 **SECOND CAUSE OF ACTION**

18 **VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**

19 34. Plaintiff incorporates by reference each of the allegations in all prior
20 paragraphs in this complaint.

21 35. California Civil Code § 51 states, "All persons within the jurisdiction of this
22 state are free and equal, and no matter what their sex, race, color, religion, ancestry,
23 national origin, disability, medical condition, genetic information, marital status, sexual
24 orientation, citizenship, primary language, or immigration status are entitled to the full
25 and equal accommodations, advantages, facilities, privileges, or services in all business
26 establishments of every kind whatsoever."

27 36. California Civil Code § 52 states, "Whoever denies, aids or incites a denial,
28 or make any discrimination or distinction contrary to Section 51, 515, or 51.6, is liable

1 for each and every offense for the actual damages, and any amount that may be
 2 determined by a jury, or a court sitting without a jury, up to a maximum of three times the
 3 amount of actual damage but in no case less than four thousand dollars (\$4,000) and any
 4 attorney's fees that may be determined by the court in addition thereto, suffered by any
 5 person denied the rights provided in Section 51, 51.5, or 51.6.

6 37. California Civil Code § 51(f) specifies, "a violation of the right of any
 7 individual under federal Americans with Disabilities Act of 1990 (Public Law 101-336)
 8 shall also constitute a violation of this section."

9 38. The actions and omissions of Defendants alleged herein constitute a denial
 10 of full and equal accommodation, advantages, facilities, privileges, or services by
 11 physically disabled persons within the meaning of California Civil Code §§ 51 and 52.
 12 Defendants have discriminated against Plaintiff in violation of California Civil Code §§
 13 51 and 52.

14 39. The violations of the Unruh Civil Rights Act caused Plaintiff to experience
 15 difficulty, discomfort, or embarrassment. The Defendants are also liable for statutory
 16 damages as specified in California Civil Code §55.56(a)-(c).

17 **THIRD CAUSE OF ACTION**

18 **VIOLATION OF CALIFORNIA DISABLED PERSONS ACT**

19 40. Plaintiff incorporates by reference each of the allegations in all prior
 20 paragraphs in this complaint.

21 41. California Civil Code § 54.1(a) states, "Individuals with disabilities shall be
 22 entitled to full and equal access, as other members of the general public, to
 23 accommodations, advantages, facilities, medical facilities, including hospitals, clinics,
 24 and physicians' offices, and privileges of all common carriers, airplanes, motor vehicles,
 25 railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes
 26 of transportation (whether private, public, franchised, licensed, contracted, or otherwise
 27 provided), telephone facilities, adoption agencies, private schools, hotels, loading places,
 28 places of public accommodations, amusement, or resort, and other places in which the

1 general public is invited, subject only to the conditions and limitations established by
2 law, or state or federal regulation, and applicable alike to all persons.

3 42. California Civil Code § 54.3(a) states, “Any person or persons, firm or
4 corporation who denies or interferes with admittance to or enjoyment of public facilities
5 as specified in Sections 54 and 54.1 or otherwise interferes with the rights of an
6 individual with a disability under Sections 54, 54.1 and 54.2 is liable for each offense for
7 the actual damages, and any amount as may be determined by a jury, or a court sitting
8 without a jury, up to a maximum of three times the amount of actual damages but in no
9 case less than one thousand dollars (\$1,000) and any attorney’s fees that may be
10 determined by the court in addition thereto, suffered by any person denied the rights
11 provided in Section 54, 54.1, and 54.2.

12 43. California Civil Code § 54(d) specifies, “a violation of the right of an
13 individual under Americans with Disabilities Act of 1990 (Public Law 101-336) also
14 constitute a violation of this section, and nothing in this section shall be construed to limit
15 the access of any person in violation of that act.

16 44. The actions and omissions of Defendants alleged herein constitute a denial
17 of full and equal accommodation, advantages, and facilities by physically disabled
18 persons within the meaning of California Civil Code § 54. Defendants have
19 discriminated against Plaintiff in violation of California Civil Code § 54.

20 45. The violations of the California Disabled Persons Act caused Plaintiff to
21 experience difficulty, discomfort, and embarrassment. The Defendants are also liable for
22 statutory damages as specified in California Civil Code §55.56(a)-(c).

23 **FOURTH CAUSE OF ACTION**

24 **CALIFORNIA HEALTH & SAFETY CODE § 19955, et seq.**

25 46. Plaintiff incorporates by reference each of the allegations in all prior
26 paragraphs in this complaint.

27 47. Plaintiff and other similar physically disabled persons who require the use of
28 a wheelchair are unable to use public facilities on a “full and equal” basis unless each

1 such facility is in compliance with the provisions of California Health & Safety Code §
2 19955 et seq. Plaintiff is a member of the public whose rights are protected by the
3 provisions of California Health & Safety Code § 19955 et seq.

4 48. The purpose of California Health & Safety Code § 1995 et seq. is to ensure
5 that public accommodations or facilities constructed in this state with private funds
6 adhere to the provisions of Chapter 7 (commencing with Section 4450) of Division 5 of
7 Title 1 of the Government Code. The code relating to such public accommodations also
8 require that “when sanitary facilities are made available for the public, clients, or
9 employees in these stations, centers, or buildings, they shall be made available for
10 persons with disabilities.

11 49. Title II of the ADA holds as a “general rule” that no individual shall be
12 discriminated against on the basis of disability in the full and equal enjoyment of goods
13 (or use), services, facilities, privileges, and accommodations offered by any person who
14 owns, operates, or leases a place of public accommodation. 42 U.S.C. § 12182(a).
15 Further, each and every violation of the ADA also constitutes a separate and distinct
16 violation of California Civil Code §§ 54(c) and 54.1(d), thus independently justifying an
17 award of damages and injunctive relief pursuant to California law, including but not
18 limited to Civil Code § 54.3 and Business and Professions Code § 17200, et seq.

19 **FIFTH CAUSE OF ACTION**

20 **NEGLIGENCE**

21 50. Plaintiff incorporates by reference each of the allegations in all prior
22 paragraphs in this complaint.

23 51. Defendants have a general duty and a duty under the ADA, Unruh Civil
24 Rights Act and California Disabled Persons Act to provide safe and accessible facilities
25 to the Plaintiff.

26 52. Defendants breached their duty of care by violating the provisions of ADA,
27 Unruh Civil Rights Act and California Disabled Persons Act.
28

1 53. As a direct and proximate result of Defendants' negligent conduct, Plaintiff
2 has suffered damages.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff respectfully prays for relief and judgment against
5 Defendants as follows:

- 6 1. For preliminary and permanent injunction directing Defendants to comply
7 with the Americans with Disability Act and the Unruh Civil Rights Act;
- 8 2. Award of all appropriate damages, including but not limited to statutory
9 damages, general damages and treble damages in amounts, according to proof;
- 10 3. Award of all reasonable restitution for Defendants' unfair competition
11 practices;
- 12 4. Reasonable attorney's fees, litigation expenses, and costs of suit in this
13 action;
- 14 5. Prejudgment interest pursuant to California Civil Code § 3291; and
- 15 6. Such other and further relief as the Court deems just and proper.

16 **DEMAND FOR TRIAL BY JURY**

17 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby
18 demands a trial by jury on all issues so triable.

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20 Dated: March 29, 2023

SO. CAL. EQUAL ACCESS GROUP

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22
23 By: /s/ Jason J. Kim
24 Jason J. Kim, Esq.
25 Attorneys for Plaintiff
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